

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Rico Contonio, pro se

v.

Case No. 09-cv-65-PB

Hillsborough County Dept. of
Corrections, et al.

O R D E R

Defendants have failed to demonstrate the kind of egregious misconduct that is required to warrant dismissal for failure to prosecute under [Fed. R. Civ. P. 41\(b\)](#). See Ruiz-Rosa v. Rullán, [485 F.3d 150, 153-54](#) (1st Cir. 2007) (discussing standard); see also Esposito v. Home Depot U.S.A., Inc., [590 F.3d 72, 79](#) (1st Cir. 2009) (standard for discovery sanction that is tantamount to dismissal). Accordingly, the motion to dismiss ([Doc. No. 32](#)) is denied.

The clerk shall set a new case management conference to be held before the Magistrate Judge. The plaintiff shall attend this conference. The court will resolve any discovery disputes at the conference. If plaintiff fails, without justification, to

abide by this order, his complaint shall be dismissed without prejudice.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

March 17, 2010

cc: Rico A. Contino, pro se
Elizabeth L. Hurley, Esq.